IN THE HIGH COURT OF UTTARANCHAL AT NAINTIAL.

Amendment Application No. 10344 of 2006
In
Writ petition No. 1108 (S/S) of 2006

Narayan Singh Tangariya,
son of Sri Trilok Singh,
resident of Village and P.O. Amasarkote,
District – Bageshwar. **.....Petitioner.**

Versus

1. State of Uttaranchal through Secretary, Medical & Health, Uttaranchal Shashan, District – Dehradun.
2. Chief Medical Office, District – Bageshwar.

.....Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Sharad Sharma, learned counsel for the petitioner and Sri Paresh Tripathi, learned counsel for State of Uttaranchal on behalf of respondents.

Amendment application is allowed. Let the necessary amendment be incorporated during the course of the day.

By means of this writ petition, the petitioner has prayed for the following reliefs:

I. issue a writ, order or direction in the nature of Certiorari quashing the impugned order dated 26.07.2006 passed by respondent no. 2 annexed as Annexure No. 4 to the writ petition.

II. issue a writ, order or direction, which this Hon'ble Court may deem fit and proper under the circumstances of the case.

III. Award the cost of the petition.

Petitioner, who is working Pharmacist, has challenged the order dated 26.07.2006 passed by respondent no. 2 asking him to joint at Khati Gaon. The said order was passed in continuation of the order dated 27.04.2006 by which order dated 26.08.2005 has been cancelled.

Petitioner has challenged the transfer order on two grounds. First, he has been transferred four time in a year and as such, his transfer comes under the category of frequent transfer. I don't find any force in the submission of the learned counsel for the petitioner. On 30.06.2005, petitioner was transferred by respondent no. 2 from Government Hospital, Khaikhal to Government Hospital, Sanieu Diyar in public interest. On 26.08.2005 petitioner was attached to Community Health Centre, Bageshwar, FRU, at his own request and as such, this order cannot be treated as transfer. Further vide order 27.04.2006, petitioner attachment order has been cancelled and he was asked to joint at Khati Gaon. Petitioner did not join his duties at Khati Gaon in view of stay order passed by the Department and and now, by the impugned order dated 26.07.2006 petitioner has been asked to join his original place of posting i.e. Community Health Centre, Bageshwar, FRU. In the above circumstances, it cannot be said that frequent transfer orders have been passed.

Second ground, on which the petitioner assailed the impugned transfer order, is that impugned transfer order has been passed on the dictate of political master.

Again I do not find any force in the submission of learned counsel for the petitioner. From the perusal of the record it appears that MLA of the area has requested to the competent

authority to send a pharmacist in the hospital, as the post is lying vacant since long time. The MLA concerned has not directed the Competent Authority to send a particular person to the hospital concerned.

Aggrieved with the impugned order, petitioner preferred representation before respondent no. 2 stating therein the grounds taken in the writ petition as well as other grounds such as his children are studying in District – Bageshwar and there is nobody except the petitioner to look after his old parents, who are residing with him at Bageshwar. The said representation was filed on 28.07.2006 before respondent no. 2 and the same is still pending.

During the course of argument, learned counsel for the petitioner has prayed that respondent no. 2 may be directed to decide the representation dated 28.07.2006 within a stipulated period.

The prayer is innocuous. Accordingly, I direct the respondent no. 2 to decide the representation of the petitioner dated 28.07.2006 (Annexure SA 1 to the Supplementary Affidavit) within a period of two weeks form the date of production of certified copy of this order.

With this direction the petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J)

August 18, 2006
SKSharma